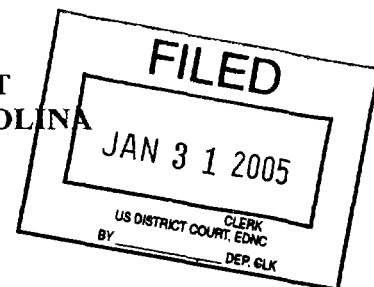


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO. 5:05-CV-48-FL(1)



RICHARD P. NORDAN, as Ancillary)
Administrator for the separate Estates of)
STEPHEN S. HELVENSTON, MIKE R.)
TEAGUE, JERKO GERALD ZOVKO and)
WESLEY J. K. BATALONA,)

Plaintiff,)

v.)

BLACKWATER SECURITY)
CONSULTING, LLC, a Delaware Limited)
Liability Company; BLACKWATER)
LODGE AND TRAINING CENTER, INC.,)
a Delaware Corporation, JUSTIN L.)
McQUOWN, an individual; and THOMAS)
POWELL, an individual,)

Defendants.)

**MOTION TO DISMISS OF
BLACKWATER SECURITY
CONSULTING, LLC AND
BLACKWATER LODGE AND
TRAINING CENTER, INC.**

Pursuant to Federal Rules of Civil Procedure 12(b)(6) and 9(b), Defendants Blackwater Security Consulting, LLC, and Blackwater Lodge and Training Center, Inc. ("Blackwater") respectfully submit this Motion To Dismiss.

Plaintiff's Complaint alleges claims arising out of Messrs. Helvenston, Teague, Zovko, and Batalona's ("Decedents") performance of work for Blackwater, a contractor supporting U.S. military operations in Iraq. Such claims are preempted by the Defense Base Act, 42 U.S.C. § 1651 *et seq.*, which provides a comprehensive scheme of compensation and the exclusive remedy for Plaintiff's claims. In addition, the plain language of Decedents' contracts with Blackwater bars the claims raised by Plaintiff. Finally, Plaintiff has not pled fraudulent

inducement of contract with sufficient particularity. The Complaint must therefore be dismissed for failure to state a claim upon which relief can be granted.

In further support of this Motion, Blackwater submits its Memorandum of Law In Support of the Motion To Dismiss.

This the 31st day of January, 2005.

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Training Center, Inc.*

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing in the above-entitled action upon all other parties to this cause by facsimile and U.S. Mail addressed to the following parties:

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This the 31st day of January, 2005.



Kirk G. Warner